

a road surface or train track or the length of its delivery hose); or

(B) Is locked by the vendor after each sale and unlocked by the vendor only in response to a request by a buyer for undyed kerosene for use other than as a fuel in a diesel-powered highway vehicle or diesel-powered train.

(2) A *registered ultimate vendor (blocked pump)* is a person that is registered under section 4101 as an ultimate vendor (blocked pump).

(3) An *ultimate vendor (blocked pump)* is a person that sells undyed kerosene from a blocked pump.

(c) *Conditions to allowance of credit or payment.* A claim for an income tax credit or payment with respect to undyed kerosene is allowed by section 6427(l)(5)(B)(i) only if—

(1) Tax was imposed by section 4081 on the kerosene to which the claim relates;

(2) The claimant sold the kerosene from a blocked pump for its buyer's use other than as a fuel in a diesel-powered highway vehicle or diesel-powered train and the claimant has no reason to believe that the kerosene will not be so used;

(3) The claimant is a registered ultimate vendor (blocked pump);

(4) With respect to each sale of more than five gallons of kerosene from a blocked pump that does not meet the conditions of paragraph (b)(1)(iv)(A) of this section, the claimant has in its possession the date of the sale, name and address of the buyer, and the number of gallons sold to the buyer; and

(5) The claimant has filed a timely claim for a credit or payment that contains the information required under paragraph (e) of this section.

(d) *Form of claim.* Each claim for an income tax credit under this section must be made on Form 4136 (or such other form as the Commissioner may designate) in accordance with the instructions for that form. Each claim for a payment under this section must be made on Form 8849 (or such other form as the Commissioner may designate) in accordance with the instructions for that form.

(e) *Content of claim.* Each claim for a credit or payment under this section must contain the following informa-

tion with respect to all of the kerosene covered by the claim:

(1) The claimant's ultimate vendor (blocked pump) registration number.

(2) The total number of gallons.

(3) A statement by the claimant that—

(i) The kerosene did not contain visible evidence of dye; or

(ii) In the case of kerosene that contains visible evidence of dye, explains the circumstances under which tax was imposed on that kerosene.

(4) With respect to each sale of more than five gallons of kerosene from a blocked pump that does not meet the conditions of paragraph (b)(1)(iv)(A) of this section, a statement by the claimant that it has in its possession the date of the sale, name and address of the buyer, and the number of gallons sold to the buyer.

(5) A statement by the claimant that it—

(i) Has not included the amount of the tax in its sales price of the kerosene and has not collected the amount of the tax from its buyer;

(ii) Has repaid the amount of the tax to its buyer; or

(iii) Has obtained the written consent of its buyer to the allowance of the claim.

(f) *Time and place for filing claim.* For rules relating to the time for filing a claim under section 6427, see section 6427(i). A claim under this section is not filed unless it contains all the information required by paragraph (e) of this section and is filed at the place required by the form.

(g) *Cross reference.* For a rule prohibiting a registered ultimate vendor (blocked pump) from delivering kerosene from a blocked pump into the fuel supply tank of a diesel-powered highway vehicle or diesel-powered train, see § 48.4101-1(h)(2)(iv).

(h) *Effective date.* This section is applicable after March 30, 2000.

[T.D. 8879, 65 FR 17162, Mar. 31, 2000]

#### § 48.6427-11 Kerosene; claims by registered ultimate vendors (blending).

(a) *Overview.* This section provides rules under which certain registered ultimate vendors of taxed kerosene may claim the income tax credits or payments allowed by section

6427(1)(5)(B)(ii). These claims relate to kerosene sold during certain periods of extreme cold for blending with diesel fuel to be used for heating purposes. Claims relating to kerosene sold for use on a farm for farming purposes and by a State are made by registered ultimate vendors under § 48.6427-9; claims relating to kerosene sold from a blocked pump for nontaxable uses are made by registered ultimate vendors (blocked pump) under § 48.6427-10; and other claims relating to kerosene used for nontaxable purposes are made by ultimate purchasers under § 48.6427-8.

(b) *Definitions.* The following definitions apply to this section:

(1) A *declaration of extreme cold* is a declaration by the Commissioner that a specific geographic area (such as a state or a county within a state) is affected by extremely or unseasonably cold weather conditions. A declaration will be in effect during the period determined by the Commissioner.

(2) A *cold weather blend* is a blend of kerosene and diesel fuel that is produced in an area described in a declaration of extreme cold and that is sold for use or used for heating purposes.

(3) A *registered ultimate vendor (blending)* is a taxable fuel registrant, a registered ultimate vendor, or a registered ultimate vendor (blocked pump).

(c) *Conditions to allowance of credit or payment.* A claim for an income tax credit or payment with respect to kerosene is allowed by section 6427(1)(5)(B)(ii) only if—

(1) Tax was imposed by section 4081 on the kerosene to which the claim relates;

(2) The claimant sold the kerosene in an area described in a declaration of extreme cold for the production of a cold weather blend;

(3) The claimant is a registered ultimate vendor (blending); and

(4) The claimant has filed a timely claim for an income tax credit or payment that contains the information required under paragraph (e) of this section.

(d) *Form of claim.* Each claim for an income tax credit under this section must be made on Form 4136 (or such other form as the Commissioner may designate) in accordance with the instructions for that form. Each claim

for a payment under this section must be made on Form 8849 (or such other form as the Commissioner may designate) in accordance with the instructions for that form.

(e) *Content of claim—*(1) *In general.* Each claim for credit or payment under this section must contain the following information with respect to all of the kerosene covered by the claim:

(i) The claimant's registration number.

(ii) The total number of gallons.

(iii) A statement by the claimant that—

(A) The kerosene did not contain visible evidence of dye; or

(B) In the case of kerosene that contains visible evidence of dye, explains the circumstances under which tax was imposed on that kerosene.

(iv) A statement by the claimant that it—

(A) Has not included the amount of the tax in its sales price of the kerosene and has not collected the amount of the tax from its buyer;

(B) Has repaid the amount of the tax to its buyer; or

(C) Has obtained the written consent of its buyer to the allowance of the claim.

(v) A statement that the claimant has in its possession an unexpired certificate described in paragraph (e)(2) of this section and the claimant has no reason to believe any information in the certificate is false.

(2) *Certificate—*(i) *In general.* The certificate described in this paragraph (e) is a statement by a buyer that is signed under penalties of perjury by a person with authority to bind the buyer, is in substantially the same form as the model certificate provided in paragraph (e)(2)(iii) of this section, and contains all information necessary to complete the model certificate. A certificate must be given for each purchase of kerosene. The certificate may be included as part of any business records normally used to document a sale.

(ii) *Withdrawal of the right to provide a certificate.* The Internal Revenue Service may withdraw the right of a buyer of kerosene to provide a certificate under this section if the buyer uses the kerosene to which a certificate relates

other than for producing a cold weather blend. The Internal Revenue Service may notify any seller to whom the buyer has provided a certificate that the buyer's right to provide a certificate has been withdrawn.

(iii) *Model certificate.*

CERTIFICATE OF BUYER FOR PRODUCTION OF A COLD WEATHER BLEND (To support vendor's claim for a credit or payment under section 6427 of the Internal Revenue Code.)

\_\_\_\_\_(Buyer) certifies the following under penalties of perjury:

Name of buyer \_\_\_\_\_

The kerosene to which this certificate applies will be used by Buyer to produce a blend of kerosene and diesel fuel in an area described in a declaration of extreme cold and the blend will be sold for use or used for heating purposes.

This certificate applies to \_\_\_\_ percent of Buyer's purchase from \_\_\_\_\_ (name, address, and employer identification number of seller) on invoice or delivery ticket number \_\_\_\_\_.

If Buyer violates the terms of this certificate, the Internal Revenue Service may withdraw Buyer's right to provide a certificate.

Buyer has not been notified by the Internal Revenue Service that its right to provide a certificate has been withdrawn.

Buyer understands that the fraudulent use of this certificate may subject Buyer and all parties making such fraudulent use of this certificate to a fine or imprisonment, or both, together with the costs of prosecution.

Printed or typed name of person signing. \_\_\_\_\_

Title of person signing \_\_\_\_\_

Employer identification number \_\_\_\_\_

Address of Buyer \_\_\_\_\_

Signature and date signed \_\_\_\_\_

(f) *Time and place for filing claim.* For rules relating to the time for filing a claim under section 6427, see section 6427(i). A claim under this section is not filed unless it contains all the information required by paragraph (e) of this section and is filed at the place required by the form.

(g) *Effective date.* This section is applicable after March 30, 2000.

[T.D. 8879, 65 FR 17162, Mar. 31, 2000, as amended by T.D. 8879, 65 FR 26489, May 8, 2000]

### § 48.6715-1 Penalty for misuse of dyed fuel.

(a) *In general.* If any person willfully alters, or attempts to alter, the strength or composition of any dye or marking done pursuant to § 48.4082-1 in any dyed fuel, then section 6715(a)(3) provides that such person shall pay a penalty in addition to any tax. The penalty imposed by section 6715(a)(3) will not apply in the following cases:

(1) Diesel fuel or kerosene that satisfies the dyeing and marking requirements of § 48.4082-1 (b) and (c) is blended with any undyed liquid and the resulting product satisfies the dyeing and marking requirements of § 48.4082-1 (b) and (c).

(2) Diesel fuel or kerosene that satisfies the dyeing and marking requirements of § 48.4082-1 (b) and (c) is blended with any other liquid (other than diesel fuel or kerosene) that contains the type and amount of dye and marker required for diesel fuel or kerosene dyed and marked in accordance with § 48.4082-1 (b) and (c).

(3) The alteration or attempted alteration occurs in an exempt area of Alaska after September 30, 1996.

(4) Diesel fuel or kerosene that does not satisfy the dyeing and marking requirements of § 48.4082-1 (b) and (c) is blended with diesel fuel or kerosene that satisfies the dyeing and marking requirements of § 48.4082-1 (b) and (c) and the blending occurs as part of a use described in § 48.4082-4(c) or § 48.6427-8(b)(1)(vii)(C) or (D).

(b) *Effective date.* This section is effective January 1, 1994.

[T.D. 8659, 61 FR 10465, Mar. 14, 1996, as amended by T.D. 8685, 61 FR 58007, Nov. 12, 1996; T.D. 8748, 63 FR 26, Jan. 2, 1998; T.D. 8879, 65 FR 17163, Mar. 31, 2000]

## PART 49—FACILITIES AND SERVICES EXCISE TAXES

### Subpart A—Introduction

Sec.

49.0-1 Introduction.

49.0-2 General definitions and use of terms.

49.0-3T Introduction; cosmetic services (temporary).

### Subpart B [Reserved]